

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6874

BILL NUMBER: SB 362

NOTE PREPARED: Feb 8, 2013

BILL AMENDED: Feb 7, 2013

SUBJECT: Battery by Body Waste.

FIRST AUTHOR: Sen. Crider

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill makes it battery by body waste, a Class D felony, for a person to knowingly or intentionally:

1. In a rude, insolent, or angry manner place blood or another body fluid or waste on a health care professional identified as such and while engaged in the performance of official duties; or
2. Coerce another person to place blood or another body fluid or waste on the health care professional.

The bill enhances the penalties for committing the offense if the blood, bodily fluid, or waste is infected with hepatitis B or hepatitis C, HIV, or tuberculosis.

Effective Date: July 1, 2013.

Explanation of State Expenditures (Revised) Additional court cases may occur from making it battery by body waste to place blood or another body fluid or waste on a health care professional. For CY 2011, 39 people were committed as a Class D felony and 4 as a Class C felony battery by body waste. The crime becomes a Class C felony if the material was infected with hepatitis B, hepatitis C, or tuberculosis and the individual is infected. The crime becomes a Class B felony if the material is infected with HIV and the person is infected.

A Class D felony is punishable by a prison term ranging from 6 months to 3 years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. A Class C felony is punishable by a prison term from 2 to 8 years, and a Class B felony is punishable by imprisonment from 6 to 20 years. The average expenditure to house an adult offender was \$18,582 in FY 2012. (This does not include the cost of new

construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,234 annually, or \$8.86 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$78,318 in FY 2012. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D, Class C, or Class B felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the automated record keeping fee (\$5), judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$2) are deposited into the state General Fund.

Explanation of Local Expenditures: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. Persons found guilty of a felony or misdemeanor are also required to pay the document storage fee (\$2), which is deposited into the clerk record perpetuation fund, and the jury fee (\$2) and the law enforcement continuing education fee (\$4), which are both deposited in the county user fee fund.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association; Department of Correction.

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